

THIRTY-EIGHTH DAY

(Wednesday, March 13, 1963)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called, and the following Senators were present:

Aikin	Krueger
Bates	Moffett
Blanchard	Moore
Calhoun	Owen
Cole	Parkhouse
Colson	Patman
Creighton	Ratliff
Crump	Reagan
Dies	Richter
Hall	Rogers
Hardeman	Schwartz
Harrington	Spears
Hazlewood	Strong
Herring	Watson
Kazen	Word

Absent—Excused

Kennard

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Leave of Absence

Senator Kennard was granted leave of absence for today on account of important business on motion of Senator Spears.

Message from the House

Hall of the House of Representatives
Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. No. 22, Petitioning the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States.

H. B. No. 1, A bill to be entitled

"An Act creating the Governor's Committee on Education Beyond the High School for the study of the needs of public and private education beyond the high school in this State and the formulation and recommendation of a comprehensive coordinated system of programs and facilities in education beyond the high school; setting a termination date for its work; providing for severability; and declaring an emergency."

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Reports of Standing Committees

Senator Kazen submitted the following reports:

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Legislative, Congressional and Judicial Districts, to which was referred H. B. No. 59, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass as amended and be printed.

KAZEN, Chairman.

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Legislative, Congressional and Judicial Districts, to which was referred S. B. No. 191, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass as amended and be printed.

KAZEN, Chairman.

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Legislative, Congressional and Judicial Districts, to which was referred S. B. No. 192, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

KAZEN, Chairman.

Senator Dies submitted the following reports:

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 119, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

DIES, Chairman.

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 314, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

DIES, Chairman.

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 315, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass as amended and be printed.

DIES, Chairman.

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 313, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

DIES, Chairman.

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 288, have had the

same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

DIES, Chairman.

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 70, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass as amended and be printed.

DIES, Chairman.

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 356, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted in lieu thereof do pass and be printed.

DIES, Chairman.

C. S. S. B. No. 356 was read the first time.

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 393, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

DIES, Chairman.

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 286, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

DIES, Chairman.

Senator Ratliff submitted the following reports:

Austin, Texas,
March 11, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Insurance, to which was referred H. B. No. 358, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

RATLIFF, Chairman.

Austin, Texas,
March 12, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Insurance, to which was referred S. B. No. 329, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass as amended and be printed.

RATLIFF, Chairman.

Senator Rogers submitted the following reports:

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred S. J. R. No. 23, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass as amended and be printed.

ROGERS, Chairman.

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred S. J. R. No. 25, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

ROGERS, Chairman.

Senator Creighton submitted the following report:

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred H. B. No. 236, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

CREIGHTON, Chairman.

Senator Dies submitted the following reports:

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 348 and S. B. No. 350, have had the same under consideration, and we are instructed to report them back to the Senate with the recommendation that they do pass and be printed.

DIES, Chairman.

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate:

Sir: We, your Committee on Oil and Gas, to whom was referred H. B. No. 207, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

OWEN, Chairman.

Senate Bill 356 Ordered Not Printed

On motion of Senator Parkhouse and by unanimous consent S. B. No. 356 was ordered not printed.

Senate Bill 191 Ordered Not Printed

On motion of Senator Parkhouse and by unanimous consent S. B. No. 191 was ordered not printed.

Senate Bill 192 Ordered Not Printed

On motion of Senator Parkhouse and by unanimous consent S. B. No. 192 was ordered not printed.

Presentation of Guest

Senator Watson by unanimous consent presented as a guest of the Senate today former Senator Jarrard Secrest of Temple.

The Senators gave former Senator Secrest a standing welcome to the Senate.

Senate Resolution 253

Senator Patman offered the following resolution:

Whereas, Senate Bill 341 as finally passed by the Senate placed the words "peace officer" in lines 5, 13, and 18 of Page 2 of the printed copy of such bill, though it was the intention of the Senate in each of said three instances to merely have the word "officer" rather than "peace officer" specified; and

Whereas, It is the desire of the Senate to correct this provision; now, therefore, be it

Resolved, By the Senate of the State of Texas, that the Enrolling and Engrossing Clerk be instructed to make the following correction in Senate Bill 341 before the same is transmitted to the House: Rather than insert the word "peace" before the word "officer" in lines 5, 13, and 18 of Page 2 of the printed copy of Senate Bill 341, leave said lines to read as they were in the said printed copy of such bill.

The resolution was read and was adopted.

Senate Resolution 254

Senator Hazlewood offered the following resolution:

Be it resolved by the Senate of Texas, that Senate Rule No. 90 be, and the same is hereby amended to hereafter read as follows:

"90. When a nomination is considered in Executive Session, all information and remarks touching the character and qualifications of the nominee, or of any vote of the members, to confirm or not to confirm, as well as the total vote to confirm or not to confirm, shall be kept secret."

Be it further resolved that this amended Rule shall be in effect from and after its adoption.

Hazlewood, Hardeman, Moffett, Moore, Crump, Owen, Ratliff, Aikin, Word, Reagan, Creighton, Watson.

The resolution was read.

Senator Hazlewood asked unanimous consent to consider the resolution immediately.

There was objection.

Senator Hazlewood then moved to consider the resolution immediately.

The motion prevailed.

The resolution was then adopted.

Vote on Adopting Senate Resolution 254 Reconsidered

On motion of Senator Hardeman and by unanimous consent the vote on the adoption of S. R. No. 254 was reconsidered as Senate Rule 71 requires a vote to suspend, rescind or amend any rule of the Senate by two-thirds of the Members present. (Senator Hardeman having voted on the prevailing side.)

Question—Shall S. R. No. 254 be adopted?

Senator Moore moved the previous question on the adoption of S. R. No. 254 and any amendments thereto and the motion was duly seconded.

Question—Shall the previous question now be put?

The previous question was ordered by the following vote:

Yeas—19

Aikin	Herring
Bates	Krueger
Blanchard	Moffett
Calhoun	Moore
Colson	Owen
Creighton	Ratliff
Crump	Reagan
Dies	Watson
Hardeman	Word
Hazlewood	

Nays—10

Cole	Richter
Hall	Rogers
Harrington	Schwartz
Kazen	Spears
Patman	Strong

Absent

Parkhouse

Absent—Excused

Kennard

Question on adoption of S. R. No. 254, the resolution was adopted by the following vote:

Yeas—23

Aikin	Blanchard
Bates	Calhoun

Colson	Moore
Creighton	Owen
Crump	Parkhouse
Dies	Ratliff
Hardeman	Reagan
Hazlewood	Richter
Herring	Strong
Kazen	Watson
Krueger	Word
Moffett	

Nays—7

Cole	Rogers
Hall	Schwartz
Harrington	Spears
Patman	

Absent—Excused

Kennard

House Bill 236 Ordered Not Printed

On motion of Senator Creighton and by unanimous consent H. B. No. 236 was ordered not printed.

Senate Bill 348 Ordered Not Printed

On motion of Senator Herring and by unanimous consent S. B. No. 348 was ordered not printed.

Senate Bill 350 Ordered Not Printed

On motion of Senator Herring and by unanimous consent S. B. No. 350 was ordered not printed.

Senate Bill 423 on First Reading

Senator Harrington moved that Senate Rule 114 and Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time, a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—28

Aikin	Moffett
Bates	Moore
Calhoun	Owen
Colson	Parkhouse
Creighton	Patman
Crump	Ratliff
Dies	Reagan
Hall	Richter
Hardeman	Rogers
Harrington	Schwartz
Hazlewood	Spears
Herring	Strong
Kazen	Watson
Krueger	Word

Absent

Blanchard	Cole
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Absent—Excused

Kennard

The following bill was the introduced, read first time and referred to the committee indicated:

By Senator Harrington:

S. B. No. 423, A bill to be entitled "An Act stating legislative intent; stating the duties and obligations of the Game and Fish Commission of Texas under this Act; defining terms; prescribing and defining unlawful Acts; providing for the defining licensing; defining duties, powers and authorities of licensees; providing the closed and open seasons of the coastal waters within the jurisdiction of the State of Texas; providing for the taking, catching, or attempting to take or catch shrimp within the coastal waters within the jurisdiction of the State of Texas; providing for the sale, resale, handling, transporting, unloading, buying, purchasing or handling in any manner or in any way shrimp within the jurisdiction of the State of Texas; providing for exceptions; providing for the continued use of legal nets now in use for a certain period of time; providing license fees imposed hereby to be a privilege tax; repealing certain acts; repealing all laws in conflict herewith to the extent of such conflict; providing and declaring penalties for commission of unlawful acts; setting venue; providing an effective date; providing for filing of reports by licensees; providing for legal "mesh size" of trawls; providing for the taking of shrimp for "bait"; providing for the taking of shrimp for "human consumption"; providing for the persons who may sell or purchase shrimp; providing for the issuance of license; providing for the disposal of "shrimp heads" and other refuse; providing for the character of an emblem evidencing the payment of the licenses imposed; providing for the display of the emblem evidencing payment of the licenses imposed; providing for the inspection and tagging of individual bait-shrimp trawls by the Game and Fish Commission; providing for the forfeiture of certain properties; providing that each day on which a violation occurs shall be a

new offense; providing for fines, imprisonment and/or both upon conviction of an unlawful act; repealing chapter 187, Acts of the 57th Legislature, 1961, and all other laws in conflict except certain local laws; providing a severability clause; and declaring an emergency."

To the Committee on State Affairs.

Senate Bill 424 on First Reading

Senator Rogers moved that Senate Rule 114 and Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time, a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—28

Aikin	Moffett
Bates	Moore
Calhoun	Owen
Colson	Parkhouse
Creighton	Patman
Crump	Ratliff
Dies	Reagan
Hall	Richter
Hardeman	Rogers
Harrington	Schwartz
Hazlewood	Spears
Herring	Strong
Kazen	Watson
Krueger	Word

Absent

Blanchard Cole

Absent—Excused

Kennard

The following bill was then introduced, read first time and referred to the committee indicated:

By Senator Rogers:

S. B. No. 424, A bill to be entitled "An Act authorizing the governing body of any incorporating city or town (including home rule cities) to lease any city-owned swimming pool to be operated by lessee as a public swimming pool under such terms and conditions as may be agreed upon by such governing body and lessee; providing for the authorization and execution of the lease and lease agreement; providing the term to be covered by such lease; and declaring an emergency."

To the Committee on Counties, Cities and Towns.

Senate Bill 423 Re-referred

On motion of Senator Aikin and by unanimous consent S. B. No. 423 was withdrawn from the Committee on State Affairs and re-referred to the Committee on Game and Fish.

Report of Standing Committee

Senator Dies by unanimous consent submitted the following report:

Austin, Texas,
March 13, 1963.

Hon. Preston Smith, President of the Senate:

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 424, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

DIES, Chairman.

Personal Privilege Speech

Pending discussion by Senator Schwartz on a personal privilege speech, Senator Herring occupied the Chair.

(President in the Chair.)

Senator Moore raised a point of order that a Senator who is addressing the Senate on a personal privilege speech is not speaking on any matter pending before the Senate and is therefore not in order.

The President overruled the point of order.

House Bill 9 on Second Reading

Senator Aikin asked unanimous consent to suspend the regular order of business and take up H. B. No. 9 for consideration at this time.

There was objection.

Senator Aikin then moved to suspend the regular order of business and take up H. B. No. 9 for consideration at this time.

The motion prevailed by the following vote:

Yeas—27

Aikin	Cole
Bates	Colson
Blanchard	Crump
Calhoun	Dies

Hall	Ratliff
Hardeman	Reagan
Harrington	Richter
Haslewood	Rogers
Herring	Schwartz
Kason	Spears
Moore	Strong
Owen	Watson
Parkhouse	Word
Patman	

Nays—2

Creighton Krueger

Absent

Moffett

Absent—Excused

Kennard

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 9, A bill to be entitled "An Act providing an elective method for calculating and determining the standard annuity allowable to members of the Teachers Retirement System of Texas, and prescribing an additional minimum service retirement benefit payable to teacher members and teacher beneficiaries; defining certain terms as used herein; etc., and declaring an emergency."

The bill was read second time.

Senator Aikin offered the following committee amendment to the bill:

Amend H. B. 9 by striking out all below the enacting clause and substituting in lieu therefor the following:

Section 1. Elective Method of Calculating the standard annuity allowable under the Teacher Retirement Act.

Subsection 1. In lieu of a standard annuity calculated in the manner prescribed by Subsection 22, Section 1 of the Teacher Retirement Act (Chapter 470, Acts Regular Session 45th Legislature as amended by Chapter 530, Acts Regular Session 54th Legislature), any member or his beneficiary may elect to have the "standard annuity" receivable from the Teacher Retirement System of Texas calculated and determined upon the basis of the "best-ten-years-average compensation" of the member as that term is hereinbelow defined; and as to

a person so electing, the "standard annuity" shall be an annuity payable in equal monthly installments aggregating in twelve months the following sum:

(a) One per cent (1%) for each year of prior service credit multiplied by the member's "best-ten-years-average compensation"; plus

(b) One and one-half per cent (1½%) for each year of membership former service and for each year of current membership service, multiplied by the member's "best-ten-years-average compensation."

Subsection 2. The term "best-ten-years-average compensation" shall mean the average annual compensation received by the member as a teacher or as an auxiliary employee during the ten years of creditable service (whether or not consecutive) in which the member earned the highest compensation. Compensation in excess of Eight Thousand Four Hundred Dollars (\$8,400.00) in any year shall be excluded in calculating the "best-ten-years-average compensation" of the member.

Section 2. A teacher member who has retired or who hereafter retires from service after attaining sixty (60) years of age and after having completed twenty-five (25) or more years of creditable service shall at all events be entitled to receive the equivalent of a standard service retirement benefit aggregating in twelve months the sum of Fifty Dollars (\$50.00) multiplied by each year of prior service credit membership former service credit, and current service credit to which such member is entitled; provided, however, that no standard service benefit shall be increased by reason of the provisions of the section to an amount exceeding the sum of One Thousand Eight Hundred Dollars (\$1,800.00) per year.

Section 3. Apart from the term "standard annuity," any term defined by Chapter 470, Acts Regular Session 45th Legislature as heretofore amended, shall, when used in this Act, have the same meaning, unless the context plainly indicates otherwise.

Section 4. The provisions of this Act shall be in addition to and cumulative of the rights granted to members and beneficiaries of the Teacher Retirement System of Texas under Chapter 470, Acts Regular Session, 45th Legislature (as heretofore amended) and other prior and existing

laws, and shall in no event be so construed as to reduce any benefit heretofore allowed or any benefit allowable under other provisions of existing laws; provided, however, that if the minimum service retirement benefit of any retired teacher with twenty-five (25) or more years of creditable service is less than the minimum prescribed in Section 2 of this Act, such benefits shall be increased from and after the end of the month in which this Act becomes effective to the minimum prescribed for equivalent service in Section 2 hereof. Section 1 of this Act shall apply to annuities becoming effective on and after the effective date of this Act.

Section 5. The crowded condition of the calendar, and the remedial importance of this legislation, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and the same is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The committee amendment was adopted.

Senator Aikin offered the following committee amendment to the bill:

Amend H. B. 9 by striking out all above the enacting clause and inserting in lieu thereof the following:

A bill to be entitled "An Act providing an elective method for calculating and determining the standard annuity allowable to members of the Teacher Retirement System of Texas, and prescribing an additional minimum service retirement benefit payable to teacher members and teacher beneficiaries; defining certain terms as used herein; providing that the rights granted under this Act shall be in addition to and cumulative of those provided for under Chapter 470, Acts of the Regular Session, 45th Legislature (as heretofore amended) and other prior and existing laws, and shall not be construed as reducing any benefit heretofore granted; and declaring an emergency."

The committee amendment was adopted.

Question—Shall H. B. No. 9 be passed to third reading?

House Bill 59 Ordered Not Printed

On motion of Senator Hazlewood and by unanimous consent H. B. No. 59 was ordered not printed.

Welcome Resolutions

S. R. No. 251—By Senator Strong: Extending welcome to Judge F. C. Winfrey of Panola County.

S. R. No. 252—By Senator Kazen: Extending welcome to W. J. Nixon, superintendent of schools of Laredo and Vidal Trevino, principal of Laredo.

S. R. No. 255—By Senator Herring: Extending welcome to students and teachers of Travis Heights School of Austin.

S. R. No. 256—By Senator Krueger: Extending welcome to students, teacher and principal of Yorktown High School.

S. R. No. 257—By Senator Dies: Extending welcome to Johnnie McLeod of Jasper.

S. R. No. 258—By Senator Rogers: Extending welcome to Paul Spilman and Dan Kennard of Wellington.

S. R. No. 259—By Senator Hall: Extending welcome to Sheriff Frank Lane of Hunt County.

Adjournment

On motion of Senator Parkhouse the Senate at 12:05 o'clock p.m. adjourned until 10:00 a.m. tomorrow.

Record of Vote

Senator Patman asked to be recorded as voting "nay" on the motion to adjourn.

THIRTY-NINTH DAY

(Thursday, March 14, 1963)

The Senate met at 10:00 a.m., pursuant to adjournment, and was called to order by the President.

The roll was called, and the following Senators were present:

Aikin	Creighton
Bates	Dies
Blanchard	Hall
Calhoun	Hardeman
Cole	Harrington
Colson	Hazlewood